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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/591,016 | 08/29/2006 | Atsushi Sano | 129239 | 6640 |
| 25944 | 7590 | 10/21/2010 | EXAMINER | |
| OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850 | | | | ESSEX, STEPHAN J |
| ART UNIT | | PAPER NUMBER | | 1727 |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 10/21/2010 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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***Advisory Action
Before the Filing of an Appeal Brief***

Application No.

10/591,016

Examiner

STEPHAN ESSEX

Applicant(s)

SANO ET AL.

Art Unit

1795

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-6

Claim(s) withdrawn from consideration: 8

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
 See Continuation Sheet

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. Other: _____

/Dah-Wei D. Yuan/

Supervisory Patent Examiner, Art Unit 1727

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's principle arguments are as follows:
A) Sotomura uses a potential sweep for forming a layer itself and such technical concept is substantially different from that delineated in claim 1. Sotomura does not disclose a concept of combining a method for forming a layer by coating and a method for forming a layer by potential sweeping.

In response to Applicant's arguments, please consider the following comments:

A) Sotomura teaches that when the electrodes are prepared, the electrochemical catalyst A and the electrocatalyst B can be held on an electrically conductive substrate by wet methods, wherein said wet methods include applying a coating liquid containing the electrochemical catalyst A and/or catalyst B on an electrically conductive substrate (see paragraph 52). Sotomura further discloses that catalyst layers comprising the electrochemical catalyst A and/or catalyst B may be deposited using a potential sweep method. Accordingly, the catalyst layer may be formed by applying electrocatalyst A using a wet coating method (precursor layer forming step), while catalyst B may be deposited using a potential sweep method (potential providing step), and vice versa.

Furthermore, it is well known in the art that potential sweep methods involve immersing a body in a solution which contains the material to be deposited thereon -- in the case of the Sotomura reference, immersing the electrically conductive substrate in a solution containing the electrocatalyst A and/or catalyst B. The act of immersing the electrically conductive substrate in said solution constitutes the formation of a precursor layer as recited in Instant Claim 1. As discussed in the previous Office Action, Sotomura discloses dissolving CoTAPc (catalyst) in a dimethyl sulfoxide (solvent) in order to form a layer of p-CoTAPc on a glassy carbon surface using electrolysis (provided with the potential) (see paragraphs 57-59).